

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

REGGIE CASWELL,

Plaintiff,

-against-

DANIEL MARTUSCELLO III, N.Y.S.D.O.C.C.S.
COMMISSIONER; STACIE BENNETT,
SUPERINTENDENT OF SULLIVAN CORR.
FAC.,

Defendants.

No. 24-CV-5723 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiff, who currently is incarcerated at Sullivan Correctional Facility, brings this Action, pro se, under 42 U.S.C. § 1983, alleging that Defendants violated his federally protected rights. By order dated July 31, 2024, the Court granted Plaintiff's request to proceed in forma pauperis ("IFP"), that is, without prepayment of fees. (*See* Dkt. No. 8.)¹

I. Discussion

A. Order of Service

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the assistance of Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within ninety days of the date a complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the Complaint and ordered that summonses be issued. The Court therefore extends the time to serve until ninety days after the date summonses are issued.

and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (providing that the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants Daniel Martuscello III and Stacie Bennett through the U.S. Marshals Service, the Clerk of Court is respectfully instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each Defendant. The Clerk of Court is further respectfully asked to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within ninety days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss this case if Plaintiff fails to do so.

B. Local Civil Rule 33.2

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this Action. Those discovery requests are available on the Court’s website under “Forms” and are titled [“Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.”](#) Within 120 days of service of the Complaint, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.³

³ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

II. Conclusion

The Clerk of Court is respectfully instructed to issue a summons for each Defendant, complete the USM-285 form with the address for each defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Court also respectfully asks the Clerk of Court to mail an information package and a copy of this Order to Plaintiff.

Local Rule 33.2 applies to this case.

SO ORDERED.

Dated: August 5, 2024
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', is written over a horizontal line.

KENNETH M. KARAS
United States District Judge

SERVICE ADDRESS FOR EACH DEFENDANT

1. Commissioner Daniel Martuscello, III
New York State Department of Corrections and Community Supervision
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2. Superintendent Stacie Bennett
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